

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

v.

RAMON ARAGON, *et al.*,

Defendants.

02 JUN 18 PM 1:06

69cv07941 JEC/ACE

RIO CHAMA STREAM SYSTEM

Chama Mainstream Section

NOTICE OF NON-RECEIPT OF WATER DIVERSION PLAN

COMES NOW Plaintiff State of New Mexico on the relation of the State Engineer ("State") and gives notice of the non-receipt of a water diversion plan from the Acequia del Rio de Chama and its commissioners as required the Order and Continuing Injunction (6714) filed May 29, 2002 and states as follows:

1. Under the order filed May 29, 2002 the Acequia del Rio de Chama and its commissioners were required to submit a water diversion plan to the State Engineer that will offset the depletion effect on the Rio Chama of the over diversion of water by the acequia between April 4, 2002 and May 21, 2002. The water diversion plan was required to be submitted to the State Engineer by June 13, 2002.

2. As of Noon June 18, 2002, no water diversion plan has been submitted to the State Engineer by the acequia and its commissioners.

3. On June 14, 2002, counsel for the State left a telephone message for Mr. Fred Waltz, counsel for the Acequia del Rio de Chama, asking why no plan had been submitted. Mr. Waltz

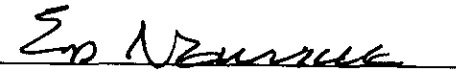
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responded with a letter that appears to indicate that his clients believe no over diversion occurred.
See letter of Fred Waltz dated June 14, 2002 attached hereto as exhibit A.

3. The State believes that the failure of the Acequia del Rio de Chama and its commissioners to submit a water diversion plan to the State Engineer by June 13, 2002 violates the Court's order of May 29, 2002 and may preclude the parties from developing a mutually acceptable plan by June 28, 2002 as required by the Court. In order to enforce the Court's order of May 29, 2002, and the existing schedule and deadlines set out in that order, the State requests an immediate telephone conference with the Court and the parties, or hearing, as the Court may direct.

DATED: June 18, 2002

Respectfully submitted,


EDWARD G. NEWVILLE
Special Assistant Attorney General
Office of the State Engineer
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CERTIFICATE OF SERVICE

I certify that a copy of the above Notice of Non-Receipt of Water Diversion Plan was mailed to the following persons on June 18, 2002.


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June 14, 2002

VIA FACSIMILE (505) 827-3887
& U.S. MAIL

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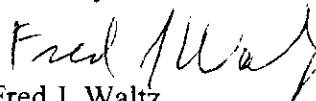
Re: State of New Mexico, ex rel. State Engineer v. Aragon, et al.,
No. 69cv07941 JEC-ACE, Rio Chama Stream System;
Acequia del Rio de Chama

Dear Mr. Newville:

As you are aware the deadline for the parties to reach agreement on a water diversion plan that would repay any over-diversion as claimed by the Watermaster was yesterday. You were provided a copy of plans and specifications that show that the maximum capacity of a siphon under the Ponil Arroyo is 8.5 cfs. That is well within the acequias diversion right of 11.5 cfs. Therefore as we explained to you and your experts, we don't believe that the acequia could have over-diverted water. The high water levels that the Watermaster observed were due to water being backed up by the nearby field diversions. Any excess water, certainly any above 8.5 cfs goes right back to the Rio Chama before the siphon.

If there was any over diversion it will be paid back. I am waiting to hear the results of our expert, Bill Miller, meeting with your office (Shawn Williams?) to determine the exact amount, if any, of the overdiversions. The Acequia will pay it back by shutting off the acequia for an appropriate number of evenings or hours. This will be done as soon as we know the quantity owed as told to us by Bill Miller and your office.

Sincerely,


Fred J. Waltz
Attorney at Law

FJW/co
xc: client
Bill Miller

